

**Town Council Meeting
Minutes
October 25, 2010**

Roll Call

All Councilors were present and answering roll call.

Public Forum

Michael Doyle of Shady Lane spoke about wasteful spending of taxpayer dollars on energy costs. In recognition of troops serving overseas, he led those present in reciting the Pledge of Allegiance.

**Item 1 (a) Order to approve the minutes of the September 7, 2010, Town
(Consent Agenda) Council Special Meeting.**

**Item 1 (b) Order to approve the minutes of the September 13, 2010, Town
(Consent Agenda) Council Special Meeting and Workshop.**

**Item 1 (c) Order to approve the minutes of the September 27, 2010, Town
(Consent Agenda) Council Meeting.**

Councilor Breen moved to accept the consent agenda; Councilor Varney seconded. Motion carried 7-0.

Councilor Pierce moved to take agenda item 8 out of order in order to table the library resolution. Councilor Varney seconded.

Councilor Breen was concerned that people who wanted to speak on this item are not here yet. Councilor Rodden agreed.

Town Manager Nathan Poore explained that Town staff thought that late-day changes in the resolution might warrant further conversations on the resolution with the Library Board of Trustees and the Council might want to table that piece until November 8.

No vote was taken; motion failed.

A member of the public requested that Item 10 be taken out of order as well. The Council took no action on that request.

**Item 2 Report from Council Committees and liaisons regarding updates on
 assignments.**

Councilor Rodden said the CDC is meeting on October 28 to discuss the sign issue. Another meeting will be held in November to discuss the RCZO; no date has yet been set for that meeting.

Councilor Varney said PACPAC is doing fine.

Councilor Pierce said the Falmouth High Glee Club is hosting a benefit concert for Habitat for Humanity/UNICEF on Saturday, November 13 at 3:00 at the High School. The Town received an achievement award from ICLEI regarding work on sustainability.

Councilor Breen said that the Greater Portland Council of Governments (GPCOG) recently updated their strategic plan. They are working on doing regional planning in the Lakes Region as a pilot program.

Councilor Chase reported that the Harbor Committee is reviewing an ordinance amendment to allow Handy Boat 20 additional moorings. Handy Boat has submitted their application to the Army Corps and MDEP; they won't approve that application until changes to the ordinance are made. The Committee is also proposing adding a float to the launch dock; this would cost less than \$10,000 and the Committee thinks they have the money to pay for it. They have also been researching adding a real bathroom to the Town Landing area. There is no sewer access down there, but there is a sewer stub at the location of the former Brown property. This raises the possibility of placing bathrooms at Underwood Park. He spoke about the RCZO issue, and zoning in general. He explained that he did not say the Pledge of Allegiance earlier in the meeting because he refuses to let Mike Doyle run the meetings. He would be happy to say it if they wanted to make it a part of every meeting.

Item 3 Report from the Appointments Committee and order relative to filling various vacancies on Boards and Committees.

Councilor Armitage reported that there are openings on the Economic Development committee. There have no recommendations for this meeting.

Chair Payne reminded everyone that November 2 is Election Day; voting will take place at the High School from 7:00 am until 8:00 pm. Absentee voting is available at Town Hall during normal operating hours.

Item 4 Report from Bob Shafto, Open Space Ombudsman, regarding the status of the Open Space program.

Bob Shafto, Open Space Ombudsman, presented an update on where the Town is in relation to implementing *The Greening of Falmouth*, including the current amount of Open Space in Town as well as the work of the Falmouth Conservation Corps in building trails to access property. He answered questions from the Council.

Councilor Rodden requested a tour of the Hadlock Community Forest to review the forest management plan. The Council agreed. Mr. Shafto said he would like to take them to another property as well, one that was cut 30 years ago in the way they are recommending for Hadlock, for comparison purposes. Mr. Poore said they will set up a special meeting/site walk at which the public will be welcome.

Item 5 Order to approve the submittal of a grant application to the Recreational Trails Program.

Mr. Shafto explained that there are trails that they want to build, but many of them need signage, and some need bridges. This grant will provide them with all they need to build out the trail system over a two year period.

Councilor Pierce moved to approve the order; Councilor Rodden seconded. Motion carried 7-0.

Item 6 Introduction of a new ordinance referred to as PACE. This agenda item will also include a discussion and presentation about the PACE program.

Councilor Pierce introduced the ordinance.

Dana Fischer of Efficiency Maine discussed the PACE program. This is a loan program, administered either by the municipality or by Efficiency Maine, to provide funds to homeowners for weatherization projects on their homes. They would then be able to finance those projects over 15 years at a low interest rate. Part of the law requires that, to participate, a municipality must pass the ordinance, set up a contract with Efficiency Maine and set up some kind of outreach and education for their residents. More than 23 states in the country have passed PACE in the last year; many of those programs were closed down due to objections by Fannie Mae and Freddie Mac about senior loan status/super priority lien status. In Maine, these loans are limited to \$15,000 (unlike in other states where they can be up to \$300,000) and, while capturing the basic tenants of other PACE programs, it leaves out the mechanism on taxation. Also, this program includes the ability of Efficiency Maine to administer the program on behalf of the municipalities. The ordinance has been passed by 19 municipalities across the state so far; there are dozens more in process. They expect to have 50% of the state, by population, covered by the end of the year. Their intention is to have it be a state-wide program. He answered questions from the Council. He stressed that there is no cost or obligation to the municipality from this program. At Councilor Breen's request he explained that this is a junior lien or junior mortgage product and will maintain its junior status even in the event of refinancing. They intend to create a mechanism for transferability to a new owner as well. Repayment would be along a monthly schedule and sent directly to Efficiency Maine; it would not be attached to the tax bill at all.

A public hearing will be held at the November 22 Council meeting.

Item 7 Introduction of amendments to the Code of Ordinances, Chapter 2, Article III in order to establish an Energy Committee, and to remove the Cable TV Committee.

Councilor Breen introduced the amendment. This amendment would merge the current Recycling Committee into the new Energy Committee, as well as eliminating the Cable TV Committee. The Cable TV committee voted in June to recommend that they be disbanded.

Councilor Varney recommended a wording change to the charge of the Energy Committee.

Councilor Rodden asked about the Recycling Committee. Councilor Breen said the Recycling Committee doesn't actually exist under the current ordinances.

Chair Payne asked about a sunset provision.

Councilor Breen didn't think it was all that useful to focus on one committee for sunseting. If they want to do an ad-hoc committee with a time limit they could. What she got from the recommendations of the Green Ribbon Commission is that it would be a standing committee. She thought if they wanted to look at sunseting, they should look at all the committees.

A public hearing will be held at the November 22 Council meeting.

- Item 8 The Council will discuss the Community Facilities project and:**
- **consider draft consensus-building ground rules,**
 - **vote on a draft resolution regarding the space needs of the Falmouth Memorial Library,**
 - **review dates for the council process timeline,**
 - **discuss the disposition process for the Pleasant Hill Fire Station and portable classrooms; and**
 - **determine its next steps in its Community Facilities Process.**

Theo Holtwijk, Director of Long-range Planning, distributed the final version of the report by Nolan Lushington, the consultant hired by the Library, including the addendum.

At Chair Payne's request, Julie Rabinowitz, Vice President of the Library Board of Trustees, said that since they have just received the figures and have some questions for Mr. Lushington, they would like some time to discuss the new ranges that are proposed. They would like to weigh in on the draft resolution, either its existing form or on any amendments the Council might make to it, at their next meeting.

Councilor Pierce said it would be difficult to make amendments to the resolution at this point, due the lack of time the Council has had with the report. She recommended putting the resolution on hold to allow the Trustees to meet and then place it on the November 8 Council meeting agenda.

At Councilor Rodden's question, Chantal Walker, President of the Library Board of Trustees, confirmed that they will have time to review the report and confer with Mr. Lushington regarding the ranges prior to the Council's November 8 meeting. By the end of their meeting on November 1 they will have a decisive recommendation to bring to the Council.

Councilor Pierce clarified that the Library has had input into this resolution and will continue to do so.

Chair Payne asked the Council to consider the draft consensus-building ground rules.

Councilor Pierce moved to suspend the rules to allow public comment; Councilor Rodden seconded. Motion carried 7-0.

Chair Payne opened a public comment period.

Marna Miller spoke about the process. She felt it has become difficult to follow. She wondered why this was put on the agenda at all when they knew they didn't have this information yet.

M. Robert Hunt wanted to know exactly what is going to happen, from the Council's point of view; what is going to happen with the Library's space needs issue.

Chair Payne explained that by not taking up the space needs issue tonight they will have the opportunity to discuss the issue at the November 8 meeting with the recommendation of the Library Board. They may not adopt the resolution at that meeting, but they will discuss it. There will be public comment at that time. The resolution language will be posted with the agenda on November 4.

Amy Winton, of McKinley Rd., asked if there will be an opportunity for the public to ask questions of the Library Board.

Ms. Walker said the public can email the Board of Trustees directly; their email addresses are on their website.

Ms. Winton wondered why it was a surprise that the report came in so close to the meeting.

Mr. Poore explained that the Library received the report late Friday. He and Mr. Holtwijk began reviewing it today, and there are some numbers that aren't reconciling. They felt there were too many questions that came up today, and so recommended that the Council delay their consideration.

Ms. Winton asked about the Thibodeau report and when the Library would have the newly revised report.

Ms. Walker said they expect that before their next meeting. Both the Town Council and the public will have access to it. It is not an update on the Library building, but rather a commercial buildings report on the Lunt and Plummer/Motz buildings.

Alex Agnew, 4 Avon Road, asked if the report of the Community Facilities Committee was rejected.

Chair Payne clarified that the report has been extended. He clarified that it is informing the process that they are currently in.

Mr. Agnew was confused as to what the Council is doing. He felt there was a step missing.

Chair Payne said they are now trying to determine, along with the Trustees, what the appropriate amount of space is to serve the Library's request. Once that is done, they will move on to the discussion of an appropriate location, and the costs associated.

Mr. Agnew asked if the Lushington report is a full report and whether they would make a square footage decision based on it. He didn't feel it was a full report.

Chair Payne said they are going on the original basis of the committee, the Lucker report, architectural reports from Barba and Wheelock. Mr. Lushington was basically doing a peer review and an update on the numbers presented by Mr. Lucker.

Mr. Agnew thought they could make a decision on the square footage on November 8. He asked about other Town facilities.

Chair Payne said the other consideration would be the Community Programs Department's requests for space.

Mr. Agnew asked if the Council was making decisions or recommendations; Chair Payne said they are making decisions.

Mr. Agnew felt it was strange to make a decision about square footage before a design.

Chair Payne asked what Mr. Agnew felt was missing.

Mr. Agnew said there was a committee process that didn't work out after two years for whatever reason, and he felt they needed more work before they could make a decision on space. He felt what was missing was consideration of where this fits in with the comprehensive plan, and how it fits with the rest of the Town.

Councilor Rodden said they are looking at the needs of three components: the library, a community center and the Town Hall and the possibilities of where each could go.

Public comment period closed.

The Council considered the draft consensus-building ground rules. After some discussion, the Council chose not to adopt the draft ground rules.

Chair Payne raised the next item, the timeline for the process.

Councilor Pierce said that, since the discussion about the library has been pushed off, anything about the library needs to be revised. She will not be able to attend the meeting on November 22.

Mr. Holtwijk said that the timeline would be updated for each agenda, so everyone would know where they were in the process.

Chair Payne raised the next item, the portable classrooms.

Mr. Poore suggested they discuss Pleasant Hill first. There are restrictions on the portion of the property that was added in the late 1980's. Mr. Poore is in discussions with the person who deeded that property to the Town, Howard Reiche, regarding different uses for the land, and while Mr. Reiche has been open to discussions, nothing has been decided yet. Mr. Poore spoke about the ordinance that governs the disposal of surplus property, and the methods by which the Town can sell that land. He would like to finalize his discussions with Mr. Reiche before the Council discusses disposal. He is not ready to make a recommendation yet and asked for the Council's feedback.

Councilor Pierce thought they should finalize the discussions with Mr. Reiche and then bring the item back to the Council for discussion at that point.

Chair Payne raised the issue of portable classrooms.

Councilor Pierce asked if the School owns those.

Mr. Poore said they do, and they would need to transfer them over to the Town along with the rest of the real property.

Councilor Breen stressed that, according to Town Attorney Bill Plouffe, whenever something like this happens, it is a critical step that the School Board officially signs over the property to the Town and the Town officially takes on the property.

Mr. Poore said staff has more work to do on this.

Chair Payne said the next item was to discuss the next steps for the Community Facilities process. He reviewed the timeline.

Councilor Breen spoke about contact she has had with Lori Whittemore who runs a state agency that works with school age children. Ms. Whittemore expressed interest in renting property, and may submit a letter of interest to the Town regarding the school buildings.

Councilor Armitage was concerned about delaying the RFP/RFQ process until January. He would like to see that happen in December. He thought they knew, based upon the meeting at the library, what the Library Board would prefer to see. He thought by January they would be too far down the road in the process, and there would already be expectations of what they were going to do. He thought they needed to see what the options are for the vacated buildings.

Councilor Breen asked for clarification that Councilor Armitage wanted an RFQ that would include the whole property.

Councilor Armitage said yes, that includes some civic use and some development. They might get information from the private sector that said that civic use wouldn't work there.

Councilor Chase was frustrated that they haven't gotten back to Oceanview. One of the committee's recommendations was to sell five acres to Oceanview.

Councilor Pierce said that was a recommendation that was part of the larger plan that the committee wanted to send to the voters. She stressed that they were only 7 people out of 8800 residents of the Town and she wanted to achieve what the community wants, rather than what the individuals of the Council want.

Councilor Armitage said he has to be comfortable with what he votes to send to the voters. He wanted to see what all the options are, including input from the public sector, before he sends something to the voters.

Councilor Chase said that 500 people participated in the committee's public process, and were in favor of selling those 5 acres.

The Council discussed Councilor Armitage's request regarding moving up the RFQ process. Chair Payne said that at the time when they determine what the space needs are for the Library and community center, they would send out an RFQ that would ask, based on the space needs, what developers would suggest. Councilor Armitage agreed with that.

Councilor Breen asked Councilor Armitage to draft something regarding the RFQ for the Council to review. Councilor Armitage said he wouldn't be able to do that with the time he has available.

Chair Payne asked about available staff resources. Mr. Poore said this is a very important project and they would make it happen.

Mr. Poore suggested they add the library's current location to that RFQ. Councilor Pierce suggested adding all the town properties. Mr. Poore said he was going on the assumption that the Town Hall is not in play; the Council would have to reach consensus regarding any decision on Town Hall. Mr. Poore wondered about the RFQ process versus an RFP.

Councilor Armitage said there are several months of work involved in preparing a plan, including the financials. At this point he felt they were looking for qualifications with the preliminary question of whether the developers felt there were some options and scenarios for this property. Once they have selected someone, the Council can then ask them to review the preferred plan to see if it is viable.

Mr. Poore felt that a developer is only going to go so far with this without payment for their services. He felt staff could have a draft RFQ for the Council to review by the end of November.

Councilor Chase stressed again the sale of the five acres to Oceanview. He said a good developer wouldn't want any money; a good developer would buy the property.

Chair Payne polled the Council about the RFQ process. Councilor Rodden wanted to continue with the process they have agreed upon. Councilor Varney wanted to move it up. Councilor Breen thought if they do the RFQ it should include all the sites. In consideration of the June election, she agreed with doing it sooner. Councilor Chase would go along with an RFQ, but thought an RFP would be better. Councilor Pierce agreed with Councilor Breen; she was agreeable to moving it up, as long as it includes all the sites; she would not be comfortable with limiting it to just the 20 or 15 acres at the school site.

Mr. Poore asked for clarification that it would include the Town Hall.

Councilor Breen thought they come up with a square footage recommendation and ask what the best way would be to do it.

The Council agreed to include Town Hall in the RFQ process.

Mr. Holtwijk said that, during the Workforce Housing project, they shopped around their draft to developers for their input, to help them craft the best RFP. Due to the complexity of this project, he suggested the same process here.

The Council discussed the potential sale of 5 acres to Oceanview. Councilor Armitage felt they shouldn't do that until they had gone through the process. Councilor Breen felt they should wait.

Councilor Rodden moved to take item 10 before item 9; Councilor Pierce seconded. Motion fails 5-2 (Breen, Chase). A motion to waive Council rules must be a unanimous vote.

Item 9 Resolution to create the Greater Portland Economic Development Corporation.

Councilor Armitage moved to adopt the resolution; Councilor Pierce seconded.

Councilor Breen discussed the proposed corporation and its goals.

Chair Payne asked if it had lending authority or if it would. Councilor Breen said it doesn't at this point and it would be up to its board of directors to make that determination.

Chair Payne felt there were plenty of economic development bodies at this point. He felt adding more process and overlay at this point didn't make a lot of sense.

Councilor Armitage said that there is some discussion regarding redistricting the economic development districts in the state. He felt there is big push to coordinate and collaborate more. He thought most of the towns in Cumberland County should roll their loan programs into this entity. He supported the resolution.

Motion carried 5-2. (Payne, Chase)

Item 10 Review Freedom of Access Act Administrative Protocol.

Mr. Poore explained that this policy came out of discussions of the One Falmouth Committee. The goal was for the School and the Town to have one document. He explained that there was some concern on the part of staff that the reduction in the copy charge would lead to people requesting a copy of a whole file, so he made a change to the policy to make it clear that large requests may take several days.

Councilor Rodden asked about a provision that requires the requester to pay for a staff person to present during copying of documents.

Mr. Poore said that section will be removed.

Councilor Armitage felt the new section regarding the time to produce large requests was subjective and he didn't want to put staff in that position.

Mr. Poore said he would keep an eye on it, and it could be changed if there was a problem. This is a policy for personnel and so no Council action is necessary to adopt or amend it.

Councilor Armitage said that the One Falmouth Committee was unanimous in recommending that a policy be established.

Councilor Payne thought State statute had time limits.

Mr. Poore said the statute gives a timeframe for when you have to respond to a request, but not on when the requested information must be delivered.

The Council indicated general agreement with the policy.

Item 11 Introduction of an amendment to Chapter 6, Article 6, Section 6.68, Appendices A-C of the Falmouth Town Ordinance that will change maximum levels of income and expenses for the General Assistance program.

Mr. Poore explained that this is an annual occurrence.

A public hearing will be held at the November 22 Council meeting.

Adjourn

Councilor Armitage moved to adjourn; Councilor Breen seconded. Motion carried 7-0.

Respectfully submitted

Melissa Tryon
Recording Secretary